



Rhode Island Department of Health

NOTICE OF PUBLIC HEARING

The Director of the Rhode Island Department of Health has under consideration proposed *Rules and Regulations Related to the Health Care Quality Program (R23-17.17-QUAL)*. Pursuant to Public Law 05-045 enacted by the Rhode Island General Assembly on June 16, 2005, proposed changes have been inserted related to an annual hospital staffing report. Additional proposed changes relate to reporting requirements for home care providers/home nursing care providers.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Director will hold a public hearing on the above mentioned matter, in the **AUDITORIUM** of the Cannon Building (on the lower level), Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island on **MONDAY, DECEMBER 19, 2005 AT 10:00 A.M.** at which time and place all persons interested therein will be heard. The seating capacity of the Cannon Building room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.


In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information. The health, safety, and welfare of the public precludes any economic impact that may be incurred as a result of these regulations.

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: David R. Gifford, M.D., M.P.H., Director, Rhode Island Department of Health, #401 Cannon Building, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

Copies of the regulations are available for public inspection in the Cannon Building, Room #404, Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island, on the Department's website: www.health.ri.gov/hsr/regulations/index.php or the Secretary of State's website: www.rules.state.ri.us/rules/, by calling 401-222-1039, or by e-mailing: LizS@doh.state.ri.us.

The Cannon Building is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Health Services Regulation at 401-222-1600 (Hearing/speech impaired, dial 711) at least 72 hours prior to the hearing.

Signed this 15th day of November 2005



David R. Gifford, M.D., M.P.H., Director of Health

RULES AND REGULATIONS
RELATED TO THE
HEALTH CARE QUALITY PROGRAM

(R-23-17.17-QUAL)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

April 2002

As amended:

December 2003

November 2005 (Proposed)

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

Statutory language noted in *italics*.

INTRODUCTION

These *Rules and Regulations Related to the Health Care Quality Program (R23-17.17-QUAL)* are promulgated pursuant to the authority conferred under Chapters 23-17.17 and 42-35 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting regulations designed to implement the provisions of Chapter 23-17.17 of the Rhode Island General Laws, as amended, including the details and format for the periodic reporting requirements related to a health care quality program. The program is being phased in over a multi-year period. It began with the establishment of a program of quality performance measurement and reporting for hospitals, and it now includes nursing facilities and home care providers/home nursing care providers. In subsequent years, quality performance measurement and reporting requirements will be established for other types of health care facilities ~~such as home nursing care providers, and other licensed facilities~~ as determined by the Director of Health.

The Rhode Island legislature found that: (A) The health care service system is under transition; (B) The growth of managed care and utilization review, the merger of facilities and regionalization of care systems, and increased competition and conversions from nonprofit to profit status, are evidence of this transition; (C) The changes have created strong public interest in issues relating to quality of care and access to health services, and require careful monitoring of quality of care issues and new and improved public sector approaches to measuring, evaluating and improving quality; (D) It is an important public health function to promote quality in the state's health care system by developing a health care quality performance measures and reporting program to guide quality improvement initiatives.

In accordance with the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, in the development of regulations, consideration was given to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations, ~~and (3) any significant economic impact on small business as defined in Chapter 42-35 of the General Laws~~. The health, safety and welfare of the public overrides any economic impact which may be incurred as a result of these regulations.

These rules and regulations shall supersede all previous *Rules and Regulations Related to the Health Care Quality Program* promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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PART I *Definitions and General Requirements*

Section 1.0 *Definitions*

Wherever used in these rules and regulations, the following terms shall be construed as follows:

- 1.1 **"Clinical outcomes"** means information about the results of patient care and treatment.
- 1.2 **"Core-staffing plan"**, as used herein, *shall mean the projected complement of non-managerial nursing staff that shall be assigned on each shift to a specified patient care unit.*
- ~~1.8~~ 1.3 **"Patient Customer satisfaction"** means the degree to which the facility or provider meets or exceeds the patient's/resident's/client's/family's or member's expectations as perceived by the patient/resident/client/family or member by focusing on those aspects of care that the patient/resident/client/family or member can judge.
- ~~1.2~~ 1.4 **"Department"** means the Rhode Island Department of Health.
- ~~1.3~~ 1.5 **"Director"** means the Director of the Department of Health or his or her duly authorized agent.
- ~~1.4~~ 1.6 **"Health care facility"** shall have the same meaning as contained in ~~the regulations promulgated by the Director pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, and the regulations promulgated thereunder.~~
- 1.7 **"Home care provider"** means any person that provides, arranges to provide, offers to provide, or in any other way provides for the delivery of any direct health care services in the home requiring supervision by a registered nurse (RN), but excludes the delivery of direct nursing care by a registered (RN) or licensed practical (LPN) nurse on an on-going basis; and includes services rendered by a licensed health care professional, including but not limited to: a speech pathologist/audiologist, physical, occupational, or respiratory therapist. Also as used herein, "home care provider" includes homemaker services as defined in the *Rules and Regulations for the Licensing of Home Nursing Care Providers and Home Care Providers* of reference 5 herein.
- ~~1.5~~ 1.8 **"Home nursing care provider"** means any person that provides, arranges to provide, offers to provide, or in any other way provides for the delivery of direct nursing services in the home by a registered (RN) or practical (LPN) nurse, and provided such services are rendered in accordance with the *Rules and Regulations for the Licensing of Home Nursing Care Providers and Home Care Providers* of reference 5 herein.
- ~~1.6~~ 1.9 **"Hospital"** means a health care facility with a governing body, an organized medical staff and a nursing service, providing equipment and services primarily for inpatient care to persons who require definitive diagnosis and treatment for injury, illness or other disabilities or pregnancy. A hospital shall provide psychiatric and/or medical and/or surgical care and at least the following services: dietetic, infection control, medical records, laboratory, pharmaceutical and radiology, except that a psychiatric facility need not provide radiology services.

- ~~1.10~~ 1.10 ***"Non-managerial nursing staff"*** shall mean registered nurses, licensed practical nurses and/or certified nursing assistants who perform non-managerial direct patient care functions for more than fifty percent (50%) of their scheduled hours on a given patient care unit.
- ~~1.7~~ 1.11 ***"Nursing facility"*** means a place, however named, or an identifiable unit or distinct part thereof that provides twenty-four (24) hour inresident nursing, therapeutic, restorative or preventive and supportive nursing care services for two (2) or more residents unrelated by blood or marriage whose condition requires continuous nursing care and supervision.
- 1.12 ***"Patient care unit"*** shall mean a designated area for assigning patients and staff for which discrete budget and staffing plans exist.
- ~~1.9~~ 1.13 ***"Performance measure"*** means a quantitative tool that provides an indication of an organization's performance in relation to a specified process or outcome.
- ~~1.10~~ 1.14 ***"Person"*** means any individual, trust or estate, partnership, corporation (including associations, joint stock companies) state or political subdivision or instrumentality of a state.
- ~~1.11~~ 1.15 ***"Quality of care"*** means the result or outcome of health care efforts and is also measured using the framework of structure and process.
- ~~1.12~~ 1.16 ***"Reporting program"*** means an objective feedback mechanism regarding individual or facility performance that can be used internally to support performance improvement activities and externally to demonstrate accountability to the public and other purchasers, payers, and stakeholders.
- ~~1.13~~ 1.17 ***"Risk-adjusted"*** means the use of statistically valid techniques to account for patient variables which may include, but need not to be limited to, age, chronic disease history, and physiologic data.

Section 2.0 ***General Program Requirements***

Health Care Quality Performance Measurement and Reporting Program

- 2.1 The Health Care Quality Performance Measurement and Reporting Program shall include quality performance measures and reporting for health care facilities licensed in Rhode Island.
- 2.2 The Health Care Quality Performance Measurement and Reporting Program established under the Act shall, at a minimum, incorporate the following: (1) a standardized data set of clinical performance measures, risk-adjusted for patient variables, that shall be collected and reported periodically to the Department, and (2) comparable, statistically valid patient satisfaction measures that shall be conducted periodically by facilities and reported to the Department.

- 2.3 The Department may deny, suspend, or revoke the license or curtail the activities of any health care facility that has failed to comply with the rules and regulations stated herein.

Section 3.0 ***Program Reporting Requirements for Health Care Facilities***

- 3.1 Each licensed health care facility shall establish and maintain records and data in such a manner as to make uniform a system of periodic reporting to the Health Care Quality Performance Measurement and Reporting Program. The manner in which the requirements of this regulation may be met shall be prescribed from time to time in directives promulgated by the Director.

Reporting Requirements for Hospitals, Nursing Facilities, and Home Care Providers/Home Nursing Care Providers

- 3.2 Hospitals, Nursing facilities, and home care providers/home care nursing providers licensed under the provisions of Chapter 23-17 of the Rhode Island General Laws, as amended, shall be required to implement a customer satisfaction survey ~~to residents and/or their next of kin/legal guardians~~ at periodic intervals as prescribed by the Director.
- 3.2.1 Prior to implementation, such customer satisfaction survey instrument shall be approved by the Director after consultation with the Health Care Quality Steering Committee. Said survey shall consist of a standardized format and data set that shall be reported to the Director in such a manner so as to facilitate public reporting.
- 3.2.2 Hospitals, Nursing facilities, and home care providers/home care nursing providers shall provide the Director with patient specific information necessary for the Director to conduct the survey.

Section 4.0 ***Annual Hospital Staffing Report***

- 4.1 In accordance with section 23-17.17-8 of the Rhode Island General Laws, as amended, annually in the month of January, every licensed hospital shall submit its core-staffing plan to the Department in a form and manner as prescribed by the Department.
- 4.2 Such plan shall specify for each patient care unit and each shift, the number of registered nurses, licensed practical nurses and/or certified nursing assistants who shall ordinarily be assigned to provide direct patient care and the average number of patients upon which such staffing levels are based.

PART II *Administrative Requirements*

Section ~~4.0~~5.0 *Health Care Quality Program Steering Committee*

- ~~4.1~~ 5.1 The Director shall establish and serve as chairperson of a Health Care Quality Steering Committee of no more than nineteen (19) members to advise in the following matters: (1) determination of the comparable performance measures to be reported on, (2) assessment of factors contributing to the provision of quality health care, (3) selection of the patient satisfaction survey measures and instrument, (4) methods and format for data collection, (5) program expansion and quality improvement initiatives, (6) format for the public quality performance measurement report, (7) consideration of nursing sensitive performance measures to be reported on, (8) consideration of the relationship between human resources and quality, beginning with measurement and reporting for nursing staff, and (9) other related issues as requested by the Director.
- ~~4.2~~ 5.2 The members of the Health Care Quality Performance Steering Committee shall include one member of the House of Representatives, to be appointed by the Speaker; one member of the Senate, to be appointed by the Majority Leader, the Director or Director's designee of the Department of Human Services, the Director or the Director's designee of the Department of Mental Health, Retardation and Hospitals, the Director or the Director's designee of the Department of Elderly Affairs, and thirteen (13) members to be appointed by the Director of the Department of Health to include persons representing Rhode Island licensed hospitals and other licensed facilities/providers, the medical and nursing professions, the business community, organized labor, consumers, and health insurers and health plans and other parties committed to health care quality.
- ~~4.2.1~~ 5.2.1 ~~Commencing on the effective date of these regulations, the~~ The Director of Health shall appoint five (5) members of the Health Care Quality Performance Steering Committee for a one (1) year term, four (4) members of the Health Care Quality Performance Steering Committee for a two (2) year term, and four (4) members of the Health Care Quality Performance Steering Committee for a three (3) year term. Thereafter, all terms of appointments shall be for three (3) years. ~~Nothing stated herein shall preclude the Director of Health from re-appointing those members serving on the Health Care Quality Performance Steering Committee on or before December 31, 2001.~~
- ~~4.3~~ 5.3 The Director of Health may remove any member of the Health Care Quality Performance Steering Committee appointed by her/him for cause, including but not limited to, failure to attend Committee meetings on a regular basis.

PART III ***Practices and Procedures and Severability***

Section ~~5.0~~ **6.0 *Rules Governing Practices and Procedures***

~~5.1~~ **6.1** All hearings and reviews required under the provisions of Chapter 23-17.17 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

Section ~~6.0~~ **7.0 *Severability***

~~6.1~~ **7.1** If any provision of these rules and regulations or the circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.

Friday, November 04, 2005
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PART IV *References*

1. "Health Care Quality Program," Chapter 23-17.17 of the General Laws of Rhode Island, as amended.
2. "Licensing of Health Care Facilities", Chapter 23-17 of the General Laws of Rhode Island, as amended.
3. *Rules and Regulations for Licensing of Nursing Facilities (R23-17-NF)*, Rhode Island Department of Health, ~~April 2003~~ March 2005 and subsequent amendments thereto.
4. *Rules and Regulations for Licensing of Hospitals (R23-17-HOSP)*, Rhode Island Department of Health, ~~December 2002~~ March 2005 and subsequent amendments thereto.
5. *Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers (R-23-17-HNC/HC/PRO)* Rhode Island Department of Health, ~~March 2003~~ March 2005 and subsequent amendments thereto.
6. *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, ~~March 2003~~ April 2004 and subsequent amendments thereto.
7. Donabedian, A. *Explorations in Quality Assessment and Monitoring. Volume 1: The Definition of Quality and Approaches to its Assessment*, Ann Arbor, MI: Health Administration Press, 1980.